

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

WANDA KEFAUVER,

Plaintiff,

V.

JO ANNE B. BARNHART, :
Commissioner of Social Security, :

Defendant.

CIVIL ACTION NO. 3:CV-04-1187
(JUDGE KOSIK)

MEMORANDUM AND ORDER

AND NOW, THIS 24th DAY OF MAY, 2005, IT APPEARING TO THE
COURT THAT:

[1] On August 31, 1995, and August 1, 1998, plaintiff filed two applications for a period of disability and Disability Insurance Benefits pursuant to 42 U.S.C. §§ 401-433, alleging both physical and mental impairments. Plaintiff's applications were denied three times by Administrative Law Judges (ALJs) and remanded on two occasions by the Appeals Council for further evaluation and consideration. The two applications were consolidated prior to the second hearing before an ALJ on December 15, 1999. The final hearing before an ALJ occurred on July 16, 2002. An unfavorable decision was rendered on November 6, 2002. Plaintiff's subsequent request for review by the Appeals Council was denied on April 16, 2004;

[2] Plaintiff filed the above-captioned action against the defendant on June 2, 2004. In her complaint, plaintiff challenges the decision of the Commissioner denying her claim for a period of disability and Disability

Insurance Benefits;

[3] The case was assigned to Magistrate Judge Malachy E. Mannion;

[4] Appropriate briefs were filed by the parties and the Magistrate Judge issued a Report and Recommendation on April 19, 2005;

[5] In his Report and Recommendation, the Magistrate Judge concluded that the decision of the Commissioner which denied plaintiff's application for a period of disability and Disability Insurance Benefits was supported by substantial evidence and he recommended that the plaintiff's appeal be denied;

[6] Neither plaintiff nor defendant filed objections to the Report and Recommendation.

IT FURTHER APPEARING THAT:

[7] If no objections are filed to a Magistrate Judge's Report and Recommendation, the Court need not conduct a *de novo* review of plaintiff's claims. 28 U.S.C. § 636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 150-53, 106 S.Ct. 466 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3rd Cir. 1987);

[8] having examined the Magistrate Judge's Report and Recommendation, we agree with his recommendation to deny plaintiff's appeal. We concur with the Magistrate Judge's analysis of the issues raised in plaintiff's appeal and find the Magistrate Judge's review of the record to be comprehensive. Because we find that the Magistrate Judge adequately addressed the issues raised by plaintiff, we will adopt the Magistrate Judge's

recommendation to deny plaintiff's appeal.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

[1] the Report and Recommendation of Magistrate Judge Malachy E.

Mannion dated April 19, 2005 (Doc. 25) is **adopted**;

[2] plaintiff's appeal is denied; and,

[3] the Clerk of Court is directed to close this case, and forward a copy of this Memorandum and Order to the Magistrate Judge.

s/Edwin M. Kosik
United States District Judge